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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,666	04/02/2004	Gunter Pielmeier	005777.109442	2976
29540	7590	08/06/2008		
DAY PITNEY LLP 7 TIMES SQUARE NEW YORK, NY 10036-7311			EXAMINER FONSECA, JESSIE T	
			ART UNIT 3633	PAPER NUMBER
			MAIL DATE 08/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/817,666

Applicant(s)

PIELMEIER, GUNTER

Examiner

JESSIE FONSECA

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Drawings

The drawings were received on 4/15/08. These drawings are acceptable.

However, note the drawing objection below.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the doors and shutters must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 1 is objected to because of the following informalities:

Line 10 of claim incorrectly uses reference numeral "1" to indicate the "container wall opening." Page, 2, lines 11 of the disclosure clearly designates reference numeral "1" as the container wall and not a container wall opening. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The disclosure does not reasonably convey to one of skilled in the art as to how the installation frame window frame, shutter frame, shutter, etc. relate to one another. It's not readily apparent what the shutter and shutter frame are and how they relate to the rest of the structure. It's unclear as to how the shutter frame is secured to the installation frame. In addition, the disclosure describes a cover section (5) along the

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wraparound installation frame, but does adequately disclose how the cover section terminates in relation to the shutter frame. The structural relationships between the various elements have not been clearly defined or described.

The patentee must disclose in the patent sufficient information to put the public in possession of the invention and to enable those skilled in the art to make and use the invention MPEP 2162 and 2163.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 1: Lines 1-2 of the claim recites a container having built-in windows and doors equipped with shutter frames and shutters. It's unclear how the door has shutter frames and shutters; it appears the claims should be directed solely to the container with a built-in window? Furthermore, it appears the claims should be directed to singular built-in window as only one window is placed within an opening of the container wall.

Claim 1 recites the limitation "the interior side" in line 4 of the claim lacks proper antecedent basis. It not readily apparent what interior side the limitation is referring to, is applicant referring to the interior side of the container?

Further, lines 6-10 describes a snap-in groove of the installation frame being closed on various sides by a cover section, but being open on the upper side to receive and cover the left corner of the shutter frame. It's unclear how the "snap-in groove (3a)" is closed, it appears applicant is referring to the groove covered by cover section (5) (fig. 2) and not the snap-in groove denoted by reference number 3a? . Furthermore, it's unclear as to what sides are closed by the cover section? It appears applicant is referring to the various frame portions (e.g. lateral and bottom frame portions) of the wraparound installation frame?

With regards to claim 3: Lines 2-3 of the claim recites the limitation "this latter" which renders the claim indefinite, as it's unclear as to which element applicant referring to. Examiner's suggests amending the claims to make readily clear in what appears to be recitation of the installation frame being connected to the window via snap-in bracket.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Huelsekopf (US 4,407,100).

With regards to claim 1-3: Huelsekopf discloses a container (28) having a wraparound installation frame (10) connected to a window frame (A), wherein the interior side of the container (28) is equipped with a back square (12) that is connected to the installation frame (10) (figs. 1-3). The back square (12, figs. 1-3) of Huelsekopf would be considered to perform equally well to that of applicant's as it provide stability and alignment of the window to the container wall opening. Note the back square connected to installation frame is capable of being adjusted to the thickness of the container wall as the back square includes barbs (48) that may engage the installation frame at varying thicknesses.

Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Huelsekopf further discloses a "shutter frame" (B) received into the open upper frame portion of the wrap around installation frame (10), wherein the "shutter frame" (B) is interposed between the upper frame portion of the window frame (A) and installation frame (10) (fig. 3)

Huelsekopf further discloses cover (C) for placement in the grooves of the bottom and lateral frame portions of the installation frame (10), wherein the installation frame (10) is connected to the window frame (A) by means of a bracket (E) that is capable of snapping into the groove of the window frame (fig. 2). Note that any material has some

degree of elasticity as a force can be applied to the material, wherein that material can return to a state of equilibrium without sustaining permanent damage.

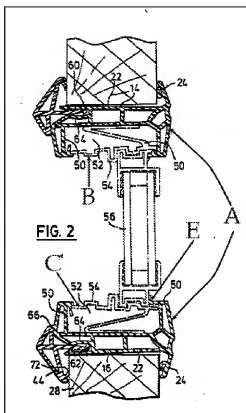


Fig. 2: Huelsekopf (US 4,407,100)

Response to Arguments

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

The objections to the specification in view of applicant's amendment filed 4/15/08.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following prior art is directed to windows including back square elements:

Boidron (US 4,757,184); Guillemet (US 5,692,349); and Dodson et al.(US 6,467,226).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSIE FONSECA whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3633

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635